



## DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING UNDERGROUND STORAGE TANKS

#01-161(SWMB)

### Overview

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rules at 329 IAC 9 concerning underground storage tanks. This rule clarifies language and requirements.

### Citations Affected

Adds, Amends and Repeals:

329 IAC 9-1-1; 329 IAC 9-1-4; 329 IAC 9-1-10.1; 329 IAC 9-1-10.2; 329 IAC 9-1-10.4; 329 IAC 9-1-10.6; 329 IAC 9-1-10.8; 329 IAC 9-1-14; 329 IAC 9-1-14.1; 329 IAC 9-14.3; 329 IAC 9-1-14.5; 329 IAC 9-1-14.7; 329 IAC 9-1-25; 329 IAC 9-1-27; 329 IAC 9-1-29.1; 329 IAC 9-1-36; 329 IAC 9-1-39.5; 329 IAC 9-1-41; 329 IAC 9-1-41.1; 329 IAC 9-1-41.5; 329 IAC 9-1-42.1; 329 IAC 9-1-47; 329 IAC 9-1-47.1; 329 IAC 9-2-1; 329 IAC 9-2-2; 329 IAC 9-2.1-1; 329 IAC 9-3-1; 329 IAC 9-3-2; 329 IAC 9-3.1-1; 329 IAC 9-3.1-2; 329 IAC 9-3.1-3; 329 IAC 9-3.1-4; 329 IAC 9-4-3; 329 IAC 9-4-4; 329 IAC 9-5-1; 329 IAC 9-5-2; 329 IAC 9-5-3.1; 329 IAC 9-5-3.2; 329 IAC 9-5-4.1; 329 IAC 9-5-4.2; 329 IAC 9-5-5.1; 329 IAC 9-5-6; 329 IAC 9-5-7; 329 IAC 9-6-1; 329 IAC 9-6-2; 329 IAC 9-6-2.5; 329 IAC 9-6-3; 329 IAC 9-6-4; 329 IAC 9-6-5; 329 IAC 9-7-1; 329 IAC 9-7-2; 329 IAC 9-7-4; and 329 IAC 9-7-6.

### Affected Persons

Underground storage tank owners and operators are affected by this rule.

### Reason(s) for the Rule

The purpose of the rulemaking is to update the underground storage tank requirements for clarity and consistency. The most current edition of 329 IAC 9 became effective August 1999. Changes were made at that time so the Indiana rules were consistent with Federal requirements. Many of the Indiana Underground Storage Tank Guidance Manual requirements were put into the rule. The rule has been implemented for more than two years. As staff have implemented this rule, they found some instances of confusion and inconsistency with the requirements. This rule will amend those parts and also add references to the statute at IC 13-12-3-2. The UST closure section is also being scrutinized. "Clean closure" and "Modified closure" and the accompanying requirements are being deleted. Incorporations by

reference documents are being updated as appropriate.

### Economic Impact of the Rule

This rule will have a low economic impact to the regulated community and to the state.

### Benefits of the Rule

The rule will be easier to understand and comply with for the regulated community. The rule will also be consistent with risk assessments for remediations that are allowed by statute.

### Description of the Rulemaking Project

Several new definitions were added and some repealed. The definitions at 329 IAC 9-1-10.1, 329 IAC 9-1-10.2, 329 IAC 9-1-14.1 and 329 IAC 0-1-41.1 were repealed and renumbered to alphabetize additional definitions added. This rule has also added appropriate references to the statute at IC 13-12-3-2. This rule reorganizes and clarifies Rule 6, the closure of UST systems and deletes "clean closure" and "modified closure". This rule also relocates several sections to be consistent with the federal regulations and appropriate procedure. Sixty days will be allowed for submittal of initial site characterization reports. Piezometers will be allowed for use during the initial site characterization.

### Scheduled Hearings

First Public Hearing: October 15, 2002, Indiana Government Center South, Conference Center Room A, Indianapolis, Indiana.

Second Public Hearing: February 18, 2003, Indiana Government Center South, Conference Center Room A, Indianapolis, Indiana.

Second Hearing Continued to March 18, 2003, Indiana Government Center South, Conference Center Room A, Indianapolis, Indiana.

### Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.

- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
  - (A) human, plant animal, or aquatic life; or
  - (B) the reasonable enjoyment of life and property.

#### **Consistency with Federal Requirements**

The amended rules are consistent with federal regulations.

#### **Rulemaking Process**

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period.

The second notice is then published which contains the comments and the department's responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Secretary of State.

#### **IDEM Contact**

Additional information regarding this rulemaking action can be obtained from Lynn West, Rules, Outreach and Planning Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027 (in Indiana).